

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)	
)	
Misuse of Internet Protocol (IP) Captioned)	CG Docket No. 13-24
Telephone Service)	
)	
Telecommunications Relay Services and Speech-)	CG Docket No. 03-123
to-Speech Services for Individuals with Hearing)	
and Speech Disabilities)	

**COMMENTS OF
THE ILLINOIS TELECOMMUNICATIONS ACCESS CORPORATION**

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The Illinois Telecommunications Access Corporation (ITAC) submits these Comments in response to the Federal Communications Commission's (Commission's) Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking (FNPRM) and Notice of Inquiry released on June 8, 2018 in CG Docket Nos. 13-24 and 03-123. In particular, ITAC's Comments address Sections C and D of the FNPRM, which seek comment on the role of state TRS programs and telecommunications equipment distribution programs (TEDPs) in the administration of Internet Protocol Captioned Telephone Service (IP CTS) and in ensuring independent assessments of eligibility for IP CTS devices.

First, ITAC agrees with the Commission's suggestion (FNPRM ¶ 123) that state TEDPs are in a position to assess user need for IP CTS. ITAC has extensive experience with CTS and other equipment assessments, is independent, shares the Commission's goal of ensuring that its customers are matched with effective equipment that best meets their needs, and shares its goal of careful stewardship of its funds. *Second*, ITAC supports a single, uniform, seamless application process within a state for IP CTS equipment that conforms to each state's existing TEDP application requirements. *Third*, ITAC believes that more information from the

Commission is needed before a state TEDP can provide certification of potential IP CTS users. *Fourth*, ITAC strongly believes that the Commission should continue to administer IP CTS funding, while reimbursing state TEDPs for their role in assessing user qualifications for IP CTS (FNPRM ¶ 114). *Fifth*, ITAC does not believe that state TRS programs should be required to certify IP CTS providers (FNPRM ¶ 115). *Finally*, ITAC does not believe that state TRS programs should be required to offer a single IP CTS provider within the state (FNPRM ¶ 115).

I. BACKGROUND

ITAC is a not-for-profit corporation formed by all Illinois local exchange telecommunications carriers (LECs), pursuant to the authorization and direction of the Illinois Commerce Commission, to implement the telecommunications assistance programs mandated under Section 13-703 of the Illinois Public Utilities Act, 220 ILCS 5/13-703. These programs include distribution of captioned telephones, TTYs, amplified telephones, and other assistive telecommunications devices to persons with hearing and speech disabilities, and provision of TRS, including CapTel Relay. All Illinois LECs, including mutual telephone companies and resellers, are required to be members of ITAC. 83 Ill. Adm. Code 755.105(d). ITAC has been in full operation for over 30 years.

ITAC is regulated by the Illinois Commerce Commission (Ill.C.C.) and funded by end-user charges included on monthly service bills by LECs, VoIP providers and cellular telephone providers, and by a percentage assessment on retail purchases of prepaid cellular services. 83 Ill. Adm. Code 755 Subpart F. The current charge per residential line or subscription, as ordered on April 19, 2018, in Ill.C.C. Docket No. 18-0476, is 4 cents per month.

ITAC provides TRS, including CapTel Relay service, through a contract with Sprint. ITAC operates its TEDP in-house. It maintains 45 selection centers geographically distributed throughout the State of Illinois, each of which has a cart stocked with functioning samples of

every piece of equipment available to qualified users under ITAC's equipment voucher program. The selection centers are located in a variety of facilities that provide services to individuals with hearing and speech disabilities, including Centers for Independent Living, the Chicago Mayor's Office for People with Disabilities, and Senior Centers, and are staffed by employees of that facility. ITAC conducts ongoing statewide and regional training for ITAC and selection center staff on every piece of voucher equipment. ITAC pays a fee to the facilities that host selection centers based solely on the volume of ITAC equipment distributed by the center. Voucher equipment is ordered electronically each night and drop-shipped to each certified user by ITAC's equipment vendors, resulting in quick service to the client.

II. AS THE ILLINOIS TEDP, ITAC IS IN A POSITION TO CERTIFY IP CTS USERS IN ILLINOIS.

A. ITAC has Expertise in Certifying CTS Users through an Objective, Multi-Step Assessment.

ITAC has offered CapTel telephones to qualified Illinois users and intrastate Illinois CTS on a trial basis since 2003 and as a standard part of Illinois TRS since 2004. ITAC has both expertise and long experience certifying users utilizing an objective, multi-step application process, similar to that proposed in the FNPRM at ¶119. ITAC's application process requires both certification by an independent third-party hearing, speech, or medical professional and a functional test of available equipment with a trained ITAC or selection center staff member.

The Illinois TEDP application requires that an applicant be certified by a speech or hearing care professional (including licensed audiologist, a licensed hearing instrument dispenser, or a licensed physician)¹ as permanently speech- or hearing-disabled such that they

¹ Applicants with hearing loss or deafness may also be certified by a designated counselor with the Illinois Department of Human Services-Division of Rehabilitation Services, or a care coordinator with the University of Illinois Division of Specialized Care for Children, although these certifiers are not commonly used. Applicants with a speech disability may alternately be certified by a speech-language pathologist. 83 Ill. Adm. Code 755.200.

can regularly and routinely communicate by telephone only through the aid of specialized equipment. 83 Ill. Adm. Code 755.10, 755.200. Illinois has no income criteria and no threshold measure for hearing loss.²

The applicant then sends the completed application, including certification of the hearing or speech care professional or physician, to ITAC for review. After review and approval of the application by ITAC, the user is sent a voucher and is directed to an ITAC selection center to test and select from the equipment available under ITAC's voucher program. ITAC staff and staff at each selection center are trained to assist the applicant in identifying the appropriate piece of equipment for their needs. This evaluation includes, among other things, consideration of the applicant's hearing needs and ability to use the technology successfully. In the case of applicants considering a captioned telephone, ITAC and selection center staff help users determine if a captioned phone would best meet their needs, or whether their communication needs could be met as well or better by other assistive technology.³ Ultimately, the choice of equipment is up to the user.

ITAC does not distribute any IP CTS telephones. In those cases where the selection center staff and user conclude that a captioned telephone is appropriate, but the applicant needs an internet-based phone, ITAC refers the applicant to an IP CTS provider for distribution of an IP captioned phone.

ITAC's equipment distribution data demonstrates its ability to carefully test and advise applicants regarding CTS equipment. In 2017, ITAC distributed a total of 4580 phones to

² It is important to note that the hearing or speech professional's examination and certification in Illinois is not provided by ITAC, is not conducted at ITAC's offices or its selection centers, is not paid for by ITAC and is not reimbursed by ITAC. This is a user responsibility in Illinois. Cf. FCC's assumptions in FNPRM at ¶ 125.

³ ITAC's experience is that many users who come to a selection center hoping to get a captioned phone end up selecting an amplified telephone instead, once they understand the role and participation of a relay operator.

certified Illinois users, as well as thousands of phone accessories. Of those phones, only 85 were landline captioned phones. Another 63 users were referred for IP CTS equipment. ITAC believes that its professional certifications, application review, and selection center testing and assistance ensure that only users who genuinely need, can utilize, and understand the features of CTS technology receive captioned phones. Subject to the resolution of ITAC's questions and concerns discussed in Section III below, ITAC could apply this same procedure to the certification and assessment of those potential Illinois IP CTS applicants who currently obtain equipment directly from an IP CTS provider without an independent, functional assessment.

B. State TEDPs such as ITAC have the Same Incentives as the Commission to Minimize Fraud.

Like the Commission, ITAC's responsibility is to serve its clientele in the most effective and cost-efficient manner and, to this end, to manage its revenues and resources responsibly. Currently, only one-third of ITAC's TRS expenses are incurred in providing traditional relay. Two-thirds of ITAC's relay costs are incurred in the provision of CTS. Because the inappropriate provision of captioned telephones has a direct and adverse impact on ITAC's intrastate landline relay costs, it is already very sensitive to the problems of inappropriate captioned telephone use. This alignment of interests makes state TEDPs appropriate to provide unbiased IP CTS user certifications, and avoids the need for detailed conflict of interest rules, such as those proposed in the FNPRM at ¶¶ 130 and 131.⁴

⁴ As noted above, ITAC's application process does require the certification of a professional hearing or speech professional or licensed physician. However, ITAC's statewide network of 45 selection centers provides the critical additional functional evaluation to ensure that the customer selects the most effective assistive equipment for their needs. The Commission's suggestion that third-party professionals conduct the entire IP CTS user assessments (including functional assessments and testing) (FNPRM ¶ 132) is both unnecessary and inefficient in Illinois.

III. STATE TEDPS NEED MORE INFORMATION BEFORE UNDERTAKING ASSESSMENT OF ALL IP CTS USERS.

A. Would the Commission Allow States to Maintain their Existing Application Processes?

If ITAC were to certify all IP CTS users in Illinois, it would be important that the Commission's rules allow Illinois to maintain its existing application process for telephone assistive equipment in Illinois. As explained above, Illinois statutes and regulations permit any physician (as well as other hearing and speech professionals) to certify that an applicant is permanently speech- or hearing-disabled such that they can regularly and routinely communicate by telephone only through the aid of specialized equipment. 83 Ill. Adm. Code 755.10, 755.200. In contrast, the Commission proposes (FNPRM ¶ 130) that only those physicians who specialize in otolaryngology be permitted to sign certifications (at least in the context of its proposed alternate, third-party professional assessments).

To maintain the integrity of the user certification process in Illinois, it is essential that the same professionals who may lawfully certify that an Illinois applicant is permanently speech- or hearing-disabled be permitted to make that determination for potential Illinois IP CTS users. An inconsistency in permissible professional certifiers would be difficult to administer in Illinois, because Illinois certification is not equipment-specific. In addition, it would be extremely inconvenient for applicants who do not know, at the time of application, which device will best serve them and, therefore, which professional is qualified to sign the certification on their application.⁵ Further, differing federal certification requirements would likely require Illinois statutory and rule changes.

⁵ As the Commission recognizes (e.g., FNPRM ¶ 132), successful and objective assessment for users interested in IP CTS will result in many users who initially inquire about captioned phones ultimately selecting amplified phones or other equipment.

If the Commission authorizes state TEDPs to certify potential users who are presently bypassing the state TEDPs and applying directly to IP CTS vendors, ITAC urges the Commission to allow each state to use its existing equipment application process. Conforming the IP CTS assessments to existing state TEDP application criteria could avoid state statute and rule changes that might result in significant delay (possibly years) in implementation.

B. How will State TEDPs Obtain Referrals for Potential IP CTS Users?

ITAC currently handles all Illinois applications for assistive telephone equipment. If an ITAC applicant is determined to be an appropriate CTS user and requires an IP phone rather than a landline, the applicant is forwarded to an IP CTS provider for IP CTS equipment. However, ITAC has no way of knowing how many Illinois residents seek IP CTS equipment directly, in response to advertisements or incentives from hearing care professionals or IP CTS providers. In order for ITAC to provide independent assessments for these individuals -- who have not submitted ITAC applications -- there would need to be a mechanism to refer these potential users to ITAC. The FNPRM does not address how potential IP CTS users would be connected to state TEDPs for assessment, when the potential user has not applied to the state TEDP. What process does the Commission envision that will ensure that each state TEDP receives calls only from potential users in its own state? Will state TEDPs have input into the process?⁶

⁶ In Illinois, for example, any procedure to channel applicants from IP CTS providers or marketing programs to ITAC for certification should direct the Illinois applicant to the ITAC central office to begin the application process, and not to individual Illinois selection centers, so that ITAC can ensure (1) that relevant records of such referrals are kept, and (2) that potential IP CTS users are directed to selection centers with experienced staff that are best able to help them select appropriate equipment.

C. What Data Can the Commission Provide to State TEDPs Regarding IP CTS Users and Usage?

ITAC annually refers a relatively small number of its applicants to IP CTS providers.⁷ However, ITAC has no information on how many Illinois residents obtain IP CTS equipment directly from vendors or marketers. If ITAC were to certify all IP CTS applicants in Illinois, it would need accurate data on Illinois customers and usage. How many IP CTS users are there in Illinois? How many users are added monthly? How many minutes of IP CTS use are there monthly and annually from Illinois users? Information of this sort is needed in order to assess the appropriate staffing to handle an increased volume of applicants in Illinois.

D. How does the Commission Propose to Reimburse TEDPs?

ITAC anticipates that the addition of assessments for IP CTS users will impose additional costs on its equipment program. Additional staff will be needed to handle the increased volume of calls and applications. Additional selection center training may be required to ensure that all center staff can provide assistance to captioned telephone applicants. ITAC will pay increased fees to selection centers for assessments of more potential IP CTS users. Record-keeping systems may need to be modified or expanded to maintain records for reimbursement of IP CTS user assessments. Procedures may need to be developed to document certification to IP CTS providers. Depending on the regulations established by the Commission, legal costs may increase due to necessary legislative and rule changes.

It is not clear from the FNPRM how the Commission would reimburse state TEDPs for these additional expenses. As noted in footnote 2 above, ITAC does not pay for or reimburse applicants for their professional hearing assessments. Does the Commission propose to reimburse states in the amount of \$125 per assessment (see FNPRM ¶ 125)? Is that amount

⁷ ITAC referred 38 applicants in 2016, 63 applicants in 2017, and 60 applicants to date in 2018.

anticipated to cover all the increased administrative costs to TEDPs? If not, how will additional costs be recovered by the state TEDP? Does the Commission intend that TEDPs will be fully reimbursed for the costs of IP CTS assessments?

As the FNPRM (§ 136) recognizes, the goal of an improved method for IP CTS certification is to reduce unnecessary IP CTS minutes of use by identifying potential users who “do not need IP CTS . . . [and] can achieve effective telephone communication through other means. . . .” In other words, a successful certification program will result in some applicants who express interest in IP CTS equipment ultimately obtaining amplified phones or other assistive devices. If the Commission proposes to reimburse TEDPs by a per-user amount, will the TEDP be reimbursed only for customers who ultimately select an IP captioned phone? Or will TEDPs be reimbursed for each potential user referred to the state program?

E. How does the Commission Propose to Handle Misleading IP CTS Advertising?

In its Report and Order, the Commission imposes new factual notification requirements on IP CTS providers (FNPRM § 41). ITAC has a serious concern that IP CTS advertising often misleads customers and encourages the selection of inappropriate equipment. How does the Commission propose to address misleading advertising? Does it believe that the factual notifications will resolve the problem? Could the Commission create incentives for IP CTS providers to allow state TEDPS to review proposed advertising within their state?

F. Could a Trial or Pilot IP CTS Referral Program Help The Commission Clarify Costs/Benefits and Appropriate Rules?

As noted above, state TEDPs lack a great deal of information about IP CTS volume that will be needed to incorporate IP CTS applications into their state TEDP application process. At the same time, there is uncertainty regarding referral and reimbursement processes, and the congruity between state and federal certification criteria. Before finalizing rules for IP CTS

certification, might the Commission undertake a trial or pilot program using several state TEDPs? Could such a trial be undertaken without legislative or regulatory changes? Could it provide important information to inform the Commission's rulemaking process regarding IP CTS? Could a trial or pilot program provide information on potential costs and benefits to state TEDPs, including growth in the distribution of equipment other than IP captioned phones?

IV. THE COMMISSION SHOULD CONTINUE TO ADMINISTER IP CTS FUNDING

ITAC strongly opposes the Commission's suggestion that states administer intrastate IP CTS funding (FNPRM ¶ 114). ITAC agrees with earlier comments by other states (see FNPRM ¶ 112 and fn. 320) that the issues of fraud and uncontrolled growth of IP CTS should be addressed in a uniform way for all states at the federal level before considering whether to transfer administration of IP CTS funding to states. As a not-for-profit entity, ITAC has neither the authority nor the staff to resolve the nationwide problems of fraud and abuse that the Commission has identified in this proceeding.

Further, changes in the administration of IP CTS funding could impose substantial other burdens. State administration of intrastate IP CTS funding may require statutory or rule changes in Illinois. In addition, it could increase ITAC's subscriber charge and add complexity to its funding mechanism. The entire structure of ITAC's funding (i.e., a fixed monthly end-user charge) is ill-suited to the environment of uncontrolled growth in IP CTS and escalating costs that are very difficult to project. Rather than transfer the funding of intrastate IP CTS to the states, the Commission should continue to administer all IP CTS funding, while reimbursing state TEDPs for management of certifications of potential IP CTS users.

V. THE COMMISSION SHOULD CONTINUE TO CERTIFY IP CTS PROVIDERS

ITAC does not believe that state TRS programs should be required to certify IP CTS providers that are allowed to deliver intrastate IP CTS to state residents (FNPRM ¶ 115). Like the Commission's TRS certifications, IP CTS certification involves evaluation of technical aspects of service that ITAC is not equipped to provide. The Commission should continue to handle certifications of IP CTS providers.

VI. THE COMMISSION SHOULD NOT REQUIRE A SINGLE IP CTS VENDOR.

ITAC does not believe that a bidding process to select a single state vendor for IP CTS is appropriate. Bidding and contracting is a relatively slow, multi-year process with multiple regulatory requirements in Illinois. Telephone technology, in contrast, is rapidly evolving and automatic speech recognition could replace or supplement captioned telephone technology in the near future. ITAC wants to be in a position to take advantage of new technological developments rather than be contractually obligated to a single provider. Further, multiple providers offer a benefit to Illinois IP CTS users. ITAC understands that some IP CTS equipment operates more easily on one IP CTS platform and cannot be used as well on another platform. Many users are more familiar with the IP CTS vendor that supplied their equipment and prefer to use that vendor's platform. For these reasons, ITAC does not support a single IP CTS vendor for Illinois.


VII. CONCLUSION

For the reasons set forth above, the Commission should allow state TEDPs to certify users who express interest in IP CTS equipment, and should fully reimburse the state programs for the costs of such certification. In so doing, the Commission should permit each state TEDP to process the certifications consistent with the state's existing TEDP application process and criteria. However, before states can fully implement IP CTS user assessments, they will need

additional information on the volume of potential applicants, and the referral, documentation, and reimbursement plans of the Commission. The Commission should continue to administer intrastate IP CTS funding and IP CTS provider certifications, and should not require states to select a single IP CTS provider.

Respectfully submitted,

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